

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

The Examiner has rejected claims 1 and 11-19 under 35 U.S.C. 112 second paragraph. Claims 1, and 11-19 have been amended. Claim 1 as now amended claims the sling itself separate from a garment. In addition, the sling is configured to wrap around a breast and to support the breast with or without any further fastening or support elements such as a garment. As stated in the specification, on page 23, lines 10-17, the sling, wrap or support apparatus can be used alone such that it is simply wrapped around the breast such that it can provide lift to the breast. Claim 11 is supported by the specification, in particular, page 21 of the specification recites on page 21 line 4 that the sling is "non-slip". Regarding claim 12, claim 12 has been amended to clearly indicate that the device is being claimed for use with a fastener, but claim 12 does not claim a garment/sling combination device. Regarding claim 15, the term "wrap" is used throughout the specification, for example on page 13 line 1. Claim 16 has been amended to state that the wrap is in "contact" with the breast. Regarding claim 17 it is respectfully submitted that it is now clear that the suspension means is coupled to the garment.

The Examiner has objected to the specification. It is respectfully submitted that the specification now supports the claims as amended.

The Examiner has rejected claims 1, 11, 12, and 14-16 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,406,699 to *Lustig*. In addition the Examiner has rejected claims 16-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,584,525 to Freeman. Furthermore, the Examiner has rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over *Lustig* in view of U.S. Patent No. 6,200,195 to *Furuno*.

It is respectfully submitted that claim 1 is patentable over the above reference to *Lustig*.

Lustig discloses a breast support apparatus which has two main features:

1) the breast support apparatus functions as a "Bust Separator" as indicated by the title, wherein the "bust separator" is configured to separate the two busts from each other;

2) the breast support apparatus is configured to form a support apparatus having straps which extend from the front to the back of the body as indicated by FIGS. 2, 4, and 5 shown below:

Fig.2.

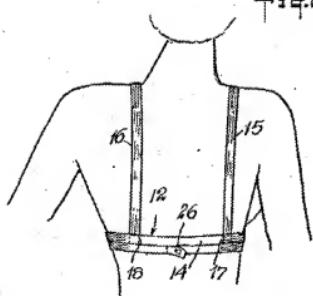


Fig.4.

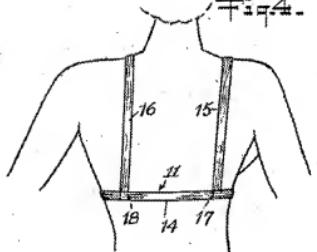
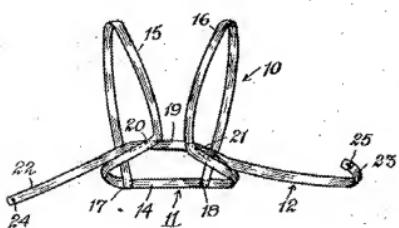


Fig.5.



It is respectfully submitted that *Lustig* actually teaches away from the present invention as claimed in amended claims 1, 11, 12, and 14-16.

First, with respect to claim 1, claim 1 recites the following passage:

said apparatus being able to support said at least one sling being configured or to suspend support and lift the at least one breast above an unsuspended position from at least one location at or above an upper portion of the associated at least one breast or at least from above at least one nipple of the at least one breast without using additional support straps such that said at least one sling forms a backless breast support for supporting the breast.

As described above, *Lustig* teaches a breast support which extends from the front to the back of the user's body. In each embodiment and in each claim, the garment of *Lustig* is described as either extending over the shoulders of the user or being fastened in the back behind the user's body. Because the device operates as a "bust separator," it relies on the front to back nature of the straps to provide for separating the breasts. In contrast, the present invention as claimed in claim 1, relates to a "backless breast support" which is essentially a breast support that does not extend behind the user's body.

Lustig actually teaches away from using the device for any other purpose than a bust separator, for example, *Lustig* actually teaches away from using the device as a brassiere:

While the device may offer some support for the breasts, it is not intended to perform the functions of a brassiere and may be worn either with or without a conventional brassiere. See *Lustig* column 1 lines 3-7

Therefore, it is respectfully submitted that claim 1 as amended is patentable over the above cited reference.

Support for the amendments for claim 1 are found in the drawings, particularly, FIGS. 2, and 3 and in the specification on page 5 lines 9-10, page 16, last line and page 17 line 6.

In addition, claim 14 has been amended to state the following:

a fastener for fastening said at least one sling or wrap of stretchable material to the at least one garment in front of a user's body wherein the sling is configured to support the at least one breast from at least one location above a nipple of the at least one breast without using additional support straps such that said at least one sling and said fastener form a backless breast support for supporting the breast.

As stated above, *Lustig* does not teach a breast support apparatus for supporting the breast from a position above the nipple, or teach a backless support. Therefore, it is respectfully submitted that claim 14 is patentable over the above patent to *Lustig*.

Claim 15 has been amended to state:

b) supporting at least one breast via said at least one wrap by wrapping the wrap around the at least one breast and supporting the at least one breast without the use of any additional straps to form a backless breast support.

As stated above, this feature is not shown in *Lustig*. Therefore, it is respectfully submitted that claim 15 is patentable over *Lustig*.

Claim 16 states:

wherein said at least one wrap of material is adapted to pull said the at least one breast inward towards a cleavage of a breast.

As stated above *Lustig* teaches away from this feature. *Lustig* actually teaches a "bust separator" which is configured to pull the breasts away from each other not inward towards a cleavage of a breast" as claimed in claim 16. Therefore, it is respectfully submitted that claim 16 is patentable over the above identified patent.

Regarding *Freeman*, *Freeman* is similar to *Lustig* in that it teaches the following:

- 1) a breast support apparatus which extends front to back;
- 2) a breast separator to further separate the breasts to draw them away from each other.

For example on lines 116-130, *Freeman* states (emphasis provided):

After the bust supporting and separating band is attached the brassiere 10 is then passed around the body over band 20 and fastened together at the rear by the fastening means 15. The band 20 in attached position draws the front central portion of the brassiere inwardly against the body, between and separating the breasts, as will be clear by reference to Fig. 2 of the drawings, and this tends to move the breasts outwardly toward the shoulders, with the result in flattening of the bust, while at the same time depressing the central portion of the brassiere and giving the bust a natural, well formed appearance.

It is respectfully submitted that claims 16-19 are patentable over *Freeman*.

First, both claims 16 and 19 relate to a breast support device for pulling the breasts inward towards the cleavage of the breasts. As disclosed above, *Freeman* teaches away from this feature. In addition, claims 17 and 18 relate to a backless breast support. As shown above, *Freeman* teaches away from these claims as well. Therefore, it is respectfully submitted that claims 16-19 are patentable over the above cited patent to *Freeman*.

Regarding the combination of *Lustig* and *Furuno*, it is respectfully submitted that since claim 1 is patentable over *Lustig* alone, claim 13 which depends from claim 1 is also patentable. In addition, this is because Furuno also does not disclose the features of claim 1 either.

New claims 20-31 are being added. Support for these claims are not limited to that found in the specification but are as follows:

Support for claims 20-21, is found in the specification particularly page 26 last line and on page 14 line 7. Support for claim 22 is found by way of example on page 12, lines 11-20. Support for claims 23-24 is found on page 16 lines 7-10. Support for claim 25 is found in the specification on page 12 second paragraph. Support for claim 26 is found in the specification on page 21 lines 17 and 21. Support for claims 27-29 is found on page 15 lines 3-10, page 16 line 3 and also shown in FIGS.5a-6b. New claim 30 is taken from former claim 10. Claim 31 is a method claim which is supported in the specification on page 12 last paragraph to page 13, line 4, and also on page 23,. lines 10-17. No new matter has been added.

The Commissioner is hereby authorized to charge Collard & Roe, P.C.'s deposit account under no. 03-2468 for any additional fee or to credit the account with any over payment.

Early allowance of the remaining claims is respectfully requested.

Respectfully Submitted,

/William Collard/

William Collard Reg. No. 38,411
Attorney for the Applicant

Please direct all correspondence to
Customer Number 25889

Filed: February 23, 2009

Enclosure: Request for Continued Examination; Extension of Time (3 Mo)